

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-146-C - ORDER NO. 97-597
JULY 10, 1997

IN RE: Application of Long Distance Direct) ORDER
Holdings, Inc. to Amend its Certificate) APPROVING
of Authority in order to Provide Local) CERTIFICATE
Telecommunications Services.)

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the application of Long Distance Direct Holdings, Inc. ("LDDH" or "the Company"). The Application requests that the Commission amend LDDH's Certificate of Public Convenience and Necessity in order to allow LDDH to provide local telecommunications services in the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1996), and the Regulations of the Commission.

By letter dated April 21, 1997, the Commission's Executive Director instructed LDDH to publish, one time, a prepared Notice of Filing and Hearing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing and Hearing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings and to provide notice of the hearing date on this matter. LDDH complied with this instruction

and provided the Commission with proof of publication of the Notice of Filing and Hearing. Petitions to Intervene were received from BellSouth Telecommunications, Inc. ("BellSouth") and the South Carolina Telephone Coalition ("SCTC").

A hearing was convened on July 2, 1997, at 12:30 p.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. LDDH was represented by Jimmy Segura, Esquire. The Commission Staff ("Staff") was represented by Florence P. Belser, Staff Counsel. BellSouth did not appear at the hearing.

Prior to the hearing, LDDH and the SCTC executed a Stipulation dated June 13, 1997, and the Stipulation was filed with the Commission. As a result of the Stipulation, SCTC withdrew its intervention in the Docket. The Stipulation provides the following:

(1) The SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to LDDH if the Commission makes the necessary findings to grant the Certificate and if all stipulated conditions are met;

(2) LDDH agrees that any Certificate granted by the Commission will authorize LDDH to provide service only to customers located in non-rural local exchange company ("LEC") service areas except as otherwise provided;

(3) LDDH agrees that it is not requesting the Commission to find whether competition is in the public interest for rural areas;

(4) LDDH agrees that it will not provide local service, by

its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until LDDH provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. LDDH also acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

(5) LDDH agrees that if, after LDDH gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then LDDH will not provide service to any customer located within the service area in question without prior and further Commission approval;

(6) LDDH acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as

such policies, procedures and guidelines do not conflict with Federal or State law;

(7) LDDH and the SCTC agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and

(8) LDDH agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both the SCTC and LDDH and was filed with the Commission prior to the hearing in this matter. We therefore accept the stipulation.

In support of its Application, LDDH presented Salome James to testify. Ms. James is employed by LDDH as Accounts Receivable Manager. The purpose of Ms. James' testimony was to (1) present evidence on the technical, managerial, and financial abilities of LDDH to provide local exchange telecommunications services in South Carolina and (2) to show that the granting of LDDH's Application is in the public interest.

DISCUSSION

S.C. Code Ann. §58-9-280 (Supp. 1996) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone

service in the service territory of an incumbent LEC.

After full consideration of the applicable law, LDDH's Application, and the evidence presented at the hearing, the Commission finds and concludes that the Certificate sought by LDDH should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1996) and the evidence presented at the hearing which relates to that criteria:

(1) The Commission finds that LDDH possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1996). To demonstrate LDDH's technical qualifications, Ms. James testified that LDDH has demonstrated technical proficiency with regard to the provision of interexchange services. Ms. James stated that LDDH provides intrastate service in forty-seven (47) states, originates interstate and international traffic in all fifty (50) states, and has obtained local service authority in six (6) states. Ms. James stated that LDDH has been providing high quality interexchange service for a number of years. Ms. James also offered that LDDH possesses the technical qualifications to provide local exchange service on a resale basis and stated that the quality of local exchange service provided by LDDH will meet or exceed the quality of service which customers receive from their current local service provider.

Concerning LDDH's managerial qualifications, Ms. James testified that LDDH's Chief Executive Officer is one of the

telecommunications industry's most experienced technology executives having served as President of Comtec, Inc., a New York-based telecommunications corporation, and as director of telecommunications for NBC and for Corning Labs. Regarding LDDH's financial resources, the record reveals that LDDH is organized under the laws of the State of Nevada. Ms. James testified that LDDH has sufficient financial resources to provide local services. Ms. James stated that LDDH is one of the fastest growing interexchange carriers in the industry and that LDDH reported gross revenues for the three months ended March 31, 1997, of \$2,097,202. Further, Ms. James stated that LDDH expects to receive 2,000 new customers per month which should result in substantial growth in revenues. No other party offered any evidence in opposition to Ms. James' testimony. Based on the undisputed evidence of the record, the Commission finds that LDDH possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that LDDH will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1996). Ms. James testified that LDDH seeks to provide local telecommunications services, primarily as a reseller. Ms. James specifically stated that LDDH will comply with all applicable rules, policies, and statutes applicable to the offering of those services and that LDDH fully intends to meet the Commission's service standards. Furthermore, Ms. James testified that LDDH will make certain changes to its tariff to

bring the tariff into compliance with Commission Rules and Regulations. No party offered any evidence to dispute Ms. James' testimony. Based on the undisputed testimony from Ms. James, the Commission believes, and so finds, that LDDH will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that LDDH's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1996). Ms. James' prefiled testimony reveals that LDDH anticipates that approval of its Application will facilitate competition in the local exchange telecommunications industry in South Carolina. Ms. James further offered that competition would result in reductions in the cost to consumers of telecommunications services. No party offered any evidence that the provision of local exchange service by LDDH would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by LDDH will not adversely impact affordable local exchange service.

(4) The Commission finds that LDDH will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1996). Ms. James testified that LDDH will comply with the Commission's universal service requirements. No party disputed Ms. James' testimony. Based on the undisputed evidence of record, the Commission finds that LDDH will participate in support of universally available telephone service

at affordable rates.

(5) The Commission finds that the provision of local exchange service by LDDH "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996). Ms. James offered that the competition of LDDH offering services in South Carolina will benefit customers by providing customer choice of providers, by providing greater efficiency in the provision of telecommunications services, by providing increased innovation in the manner in which existing services are provided and in the development of new services, by providing improvements in the quality of service, and by providing reductions in the cost to consumers of telecommunications services. Ms. James' testimony was undisputed as no party offered any evidence that approval of LDDH's Application would adversely impact the public interest. Therefore, the Commission finds that approval of LDDH's Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996).

Therefore, based on the findings above, the Commission finds and concludes that the Certificate sought by LDDH should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Application of LDDH for a Certificate of Public Convenience and Necessity to provide resold and facilities-based local exchange telecommunications services in the State of South Carolina is approved.

2. The Stipulation filed by LDDH and the SCTC is approved by this Commission, is binding upon LDDH and the SCTC, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina. LDDH shall conduct its operations in compliance with the Stipulation until further Order of the Commission.

3. LDDH shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes as proposed by the Commission Staff and to which LDDH agreed.

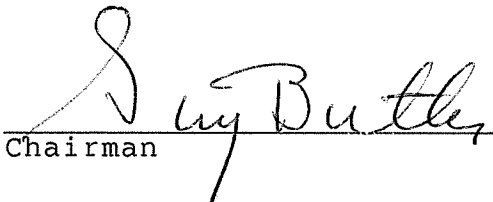
4. LDDH shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, LDDH shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. LDDH shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, LDDH shall promptly notify the Commission in writing if the representatives are replaced. LDDH is directed to comply with all Commission

regulations unless expressly waived by the Commission.

5. LDDH shall conduct its business in accordance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)